



February 20, 2004

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## ENGROSSED SENATE BILL No. 189

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DIGEST OF SB 189 (Updated February 18, 2004 2:16 pm - DI 75)

**Citations Affected:** IC 13-22; noncode.

**Synopsis:** Environmental regulation. Provides an alternate means to measure the efficacy of the destruction or treatment of chemical munitions. Requires IDEM to implement an inspection protocol to ensure compliance with environmental statutes by facilities licensed to destroy or treat chemical munitions. Extends to July 1, 2006, the prohibition against adoption of a new rule by an environmental rulemaking board or adoption of a new policy by the department of environmental management if the new rule or policy would require certain industries to comply with standards of conduct that exceed federal standards. Excepts from the prohibition adoption of a new rule by the air pollution control board that is necessary to attain or maintain certain air quality standards.

**Effective:** Upon passage.

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(HOUSE SPONSORS — BOTTORFF, WOLKINS)

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January 6, 2004, read first time and referred to Committee on Environmental Affairs.  
January 22, 2004, amended, reported favorably — Do Pass.  
January 26, 2004, read second time, ordered engrossed. Engrossed.  
January 27, 2004, read third time, passed. Yeas 45, nays 1.

#### HOUSE ACTION

February 4, 2004, read first time and referred to Committee on Rules and Legislative Procedures.  
February 19, 2004, amended, reported — Do Pass.

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ES 189—LS 6734/DI 52+





February 20, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 189

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 13-22-3-10 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. **(a)** In addition  
3 to any other requirements, a permit may not be issued under this  
4 chapter for the construction or operation of a hazardous waste facility  
5 to be used for the destruction or treatment of a chemical munition  
6 unless the person applying for the permit has demonstrated all of the  
7 following:

8 (1) That the destruction or treatment technology to be used at the  
9 proposed hazardous waste facility has been in operation:

10 (A) at a facility comparable to the proposed hazardous waste  
11 facility; and

12 (B) for a time sufficient to demonstrate **either**:

13 (i) that ninety-nine and nine thousand nine hundred  
14 ninety-nine ten thousandths percent (99.9999%) of the  
15 chemical munition processed at the comparable facility has  
16 been destroyed or treated; **or**

17 (ii) **that the chemical munition processed at the**

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comparable facility has been destroyed or treated to the extent equivalent to or better than that described in item (i) as measured by a scientifically valid methodology accepted by the commissioner.

(2) That monitoring data from a comparable hazardous waste facility demonstrates that there are no emissions from the comparable facility that alone or in combination with another substance present a risk of any of the following:

- (A) An acute or a chronic human health effect.
- (B) An adverse environmental effect.

(3) That a plan to:

- (A) provide sufficient training, coordination, and equipment for state and local emergency response personnel needed to respond to possible releases of harmful substances from the proposed hazardous waste facility; and
- (B) evacuate persons in the geographic area at risk from the worst possible release of:
  - (i) the chemical munition; or
  - (ii) a substance related to the destruction or treatment of the chemical munition;

from the proposed hazardous waste facility; has been funded and developed.

**(b) If the department issues a permit for a facility under this section, the department shall implement an inspection protocol for the facility to ensure that the requirements of IC 13 applicable to the facility are met.**

SECTION 2. P.L.231-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE] SECTION 6. (a) **Except as provided in subsection (b), before July 1, 2005, 2006, the:**

- (1) air pollution control board, water pollution control board, or solid waste management board may not adopt a new rule; and
- (2) department of environmental management may not adopt a new policy;

if the new rule or policy would require any industry described in subsection (b) that experienced at least a ten percent (10%) job loss or a ten percent (10%) decline in production during calendar years 2001, and 2002, and 2003 to comply with a standard of conduct that exceeds the standard established in a related federal regulation or regulatory policy.

**(b) Subsection (a) does not apply to the adoption of a new rule by the air pollution control board that is necessary to attain or maintain the primary or secondary national ambient air quality**

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standards as part of a state implementation plan submitted to the United States Environmental Protection Agency under Section 110 of the federal Clean Air Act (42 U.S.C. 7410a).

(b) (c) The following are the industries referred to in subsection (a) functioning under the following primary Standard Industrial Classification (SIC) codes:

- (1) Blast furnaces and steel mills (3312).
- (2) Gray and ductile iron foundries (3321).
- (3) Malleable iron foundries (3322).
- (4) Steel investment foundries (3324).
- (5) Steel foundries (3325).
- (6) Aluminum foundries (3365).
- (7) Copper foundries (3366).
- (8) Nonferrous foundries (3369).

(c) (d) This SECTION expires July 1, ~~2005~~ 2006.

SECTION 3. An emergency is declared for this act.

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## COMMITTEE REPORT

Madam President: The Senate Committee on Environmental Affairs, to which was referred Senate Bill No. 189, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 3, delete "Before" and insert **"Except as provided in subsection (b), before"**.

Page 1, between lines 13 and 14, begin a new paragraph and insert:

**"(b) Subsection (a) does not apply to the adoption of a new rule by the air pollution control board that is necessary to attain or maintain the primary or secondary national ambient air quality standards as part of a state implementation plan submitted to the United States Environmental Protection Agency under Section 110 of the federal Clean Air Act (42 U.S.C. 7410a)."**

Page 1, line 14, strike "(b)" and insert "(c)".

Page 2, line 7, strike "(c)" and insert "(d)".

and when so amended that said bill do pass.

(Reference is to SB 189 as introduced.)

GARD, Chairperson

Committee Vote: Yeas 10, Nays 0.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures, to which was referred Senate Bill 189, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 13-22-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. **(a)** In addition to any other requirements, a permit may not be issued under this chapter for the construction or operation of a hazardous waste facility to be used for the destruction or treatment of a chemical munition unless the person applying for the permit has demonstrated all of the following:

(1) That the destruction or treatment technology to be used at the proposed hazardous waste facility has been in operation:

(A) at a facility comparable to the proposed hazardous waste facility; and

(B) for a time sufficient to demonstrate **either:**

**(i)** that ninety-nine and nine thousand nine hundred ninety-nine ten thousandths percent (99.9999%) of the chemical munition processed at the comparable facility has been destroyed or treated; **or**

**(ii) that the chemical munition processed at the comparable facility has been destroyed or treated to the extent equivalent to or better than that described in item (i) as measured by a scientifically valid methodology accepted by the commissioner.**

(2) That monitoring data from a comparable hazardous waste facility demonstrates that there are no emissions from the comparable facility that alone or in combination with another substance present a risk of any of the following:

(A) An acute or a chronic human health effect.

(B) An adverse environmental effect.

(3) That a plan to:

(A) provide sufficient training, coordination, and equipment for state and local emergency response personnel needed to respond to possible releases of harmful substances from the proposed hazardous waste facility; and

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(B) evacuate persons in the geographic area at risk from the worst possible release of:

- (i) the chemical munition; or
- (ii) a substance related to the destruction or treatment of the chemical munition;

from the proposed hazardous waste facility;  
has been funded and developed.

**(b) If the department issues a permit for a facility under this section, the department shall implement an inspection protocol for the facility to ensure that the requirements of IC 13 applicable to the facility are met."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 189 as printed January 23, 2004.)

PELATH, Chair

Committee Vote: yeas 8, nays 0.

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